

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE IMPOSING A CUSTOMER FACILITIES FEE AND CUSTOMER TRANSPORTATION FEE (COLLECTIVELY, "CFC") OF \$6.00 PER DAY, UP TO A MAXIMUM OF FIVE DAYS PER RENTAL CAR CONTRACT EFFECTIVE DECEMBER 1, 2011, AND INCREASING THE CFC FROM \$6.00 TO \$7.50 PER DAY, UP TO A MAXIMUM OF FIVE DAYS PER RENTAL CAR CONTRACT EFFECTIVE JANUARY 1, 2014, FOR CUSTOMERS RENTING VEHICLES FROM ON-AIRPORT CAR RENTAL AGENCIES, AND REPEALING RESOLUTION NO. 74039, EFFECTIVE DECEMBER 1, 2011**

**WHEREAS**, on March 7, 2000, the San Jose City Council ("Council") adopted Ordinance No. 26063, adding Part 6 to Chapter 25.08 of the San Jose Municipal Code to establish the requirement of the payment of a Customer Facilities Fee and a Customer Transportation Fee (collectively, "CFC") by each person who rents a vehicle from either an On-Airport or Off-Airport Car Rental Agency at the Norman Y. Mineta San Jose International Airport ("Airport"); and

**WHEREAS**, the amount of the CFC is to be established by resolution of the City Council; and

**WHEREAS**, on April 18, 2000, Council adopted Resolution No. 69512, which established a \$5.00 Customer Transportation Fee, which was required to be paid by any customer who rented a vehicle from an On-Airport or Off-Airport Car Rental Agency, and who arrived at or departed from the Airport, or used the Airport-mandated common use transportation system operated for the movement of On-Airport and Off-

Airport Car Rental Agency passengers between the terminals and the then-existing interim consolidated rental car facility; and

**WHEREAS**, on October 2, 2007, Council adopted Resolution No. 74039, which established a CFC of \$10.00 per rental car contract effective January 1, 2008, for customers renting vehicles from On-Airport Car Rental Agencies and repealing Resolution No. 69512, effective January 1, 2008; and

**WHEREAS**, from January 1, 2008 until the completion and occupancy of the Consolidated Rental Car Garage ("ConRac"), \$5.00 of the CFC was applied to the construction costs and \$5.00 went towards paying for the costs of the common-use transportation system; and

**WHEREAS**, from the commencement of On-Airport Car Rental Agency operations in the ConRac in June 2010, the full \$10.00 per contract CFC has been applied to the debt service of the ConRac, with the Car Rental Agencies paying the full cost of the common-use transportation system; and

**WHEREAS**, a 25% decline in passenger activity and a 33% decline in the number of flights over the past two years has resulted in a 32% decline in Car Rental Agency customers at the Airport; and

**WHEREAS**, with the significant decline in Car Rental Agency passengers, there has been a parallel and significant decline in the collection of the CFCs that are the primary source of revenue to pay for the ConRac; and

**WHEREAS**, over the past two-plus years the projected shortfall gap between CFC revenues collected and the debt service on the ConRac has increased significantly; and

**WHEREAS**, with the passage of California Senate Bill 1192 in 2010, since January 2011 airports have been authorized to impose a per day CFC if they meet the implementation requirements set out in California Civil Code Section 1936; and

**WHEREAS**, the City has determined that it is necessary to pursue the implementation of a per day CFC rate structure to address the projected shortfall gap between CFC revenues collected and the debt service on the ConRac;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

**SECTION 1. BACKGROUND INFORMATION**

California Civil Code Section 1936 provides that the City, as owner of the Airport, may impose a daily CFC in the amounts and for the time periods as set out in this Resolution under the following conditions:

- A. The City first conducts a publicly noticed hearing to review the costs of financing the design and construction of a consolidated rental car facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:
  - i. The City establishes the amount of revenue necessary to finance the reasonable cost to design and construct a consolidated rental car

- facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing; and
- ii. The City finds, based on evidence presented during the hearing, that the \$10 per contract CFC will not generate sufficient revenue to finance the reasonable costs to design and construct a consolidated rental car facility and to design, construct and operate any common-use transportation system, or acquire vehicles for use in that system; and
  - iii. The City finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph; and
  - iv. The City outlines each of the following:
    - a. Steps it has taken to limit costs; and
    - b. Other potential alternatives for meeting its revenue needs other than the collection of the daily CFC; and
    - c. The extent to which rental car companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems other than the fee from rental customers.
  - v. The California State Controller reviews and substantiates the need for and amount of the daily CFC.

## **SECTION 2. FINDINGS**

Council, after considering the evidence presented to it, finds that the following are the relevant facts regarding the proposed daily CFC, as required pursuant to California Civil Code Section 1936:

- A. The City has documented total costs for the ConRac for the period July 2000 through June 2010 (actual costs) and July 2010 through June 2041 (projected costs) in a total amount of \$836.6 million. This cost includes project costs, financing costs (bond issuance and interest expense), the commercial paper costs and common-use transportation costs. The City's total documented costs for the ConRac establish the amount of revenue necessary to finance the reasonable cost to design and construct the ConRac and to design, construct and operate the common-use transportation system at the Airport.
- B. The City's independent auditor has affirmed that the proposed daily CFC of \$6.00 per day and then increased to \$7.50 per day in 2014 at the Airport are projected to be insufficient to cover the total cost of \$836.6 million for the ConRac and common-use transportation costs. Therefore, neither the current \$10.00 per contract CFC nor the proposed daily CFC of \$6.00 per day and then increased to \$7.50 per day in 2014 will generate sufficient revenue to finance the reasonable costs to design and construct the ConRac and to design, construct and operate the common-use transportation system.
- C. A \$6.00 per day CFC that would increase to \$7.50 per day in 2014 is projected to generate \$593.7 million in revenue during the amortization period between Fiscal Year 2011 and Fiscal Year 2041. An additional \$15.6 million in \$10.00 per contract CFC revenue is projected to be raised through Fiscal Year 2012 for a total of \$609.3 million in CFC revenues to be applied to the cost of the ConRac. The Car Rental Agencies would be responsible for the difference in the total cost of the ConRac

less projected CFC revenues or \$99.3 million. The Car Rental Agencies would also be required to pay the \$128 million in projected transportation fees. Total facility rent to be paid by the rental car companies is estimated to be \$227.3 million through Fiscal Year 2041. These projected costs and revenues demonstrate that even with the additional revenues expected to be generated by the proposed daily CFC, the project costs of the ConRac will still exceed the amount of revenues by more than \$99 million through Fiscal Year 2041.

- D. Through use of a design-build construction project, maintaining tight control of the ConRac project scope and agreed upon project costs, and providing incentives to the design-build contractor for keeping project costs down, the City completed construction of the rental car garage approximately \$27 million *under* its \$260.4 million budget and six months ahead of schedule, thereby limiting project costs.
- E. The City's agreements with the On-Airport Car Rental Agencies provide that the Car Rental Agencies will pay facility rent to cover the difference between the projected CFC revenue of the City's cost of the ConRac and the common-use transportation system. There are no other significant revenue sources or other alternatives available to finance the ConRac facility and common-use transportation system beyond CFC revenues and facility rent paid by the On-Airport Car Rental Agencies to the City.
- F. The City currently uses the first floor of the seven-story ConRac for Airport public parking. The design and construction costs of the public parking portion of the ConRac represent 5.4% of the total costs of the facility. Accordingly, the Car Rental Agency portion of the facility represents 94.6% of the total design and construction costs. The City's financial share associated with the Airport public parking operations have been excluded from the amounts discussed in the City's analysis of

the ConRac costs. Assuming the proposed CFC rate of \$6.00 per day becomes effective December 1, 2011 and \$7.50 per day rate becomes effective January 1, 2014, the On-Airport Car Rental Agencies are projected to pay approximately 14% of the debt service on the ConRac. When common-use transportation costs and related project financing costs are also included, the On-Airport Car Rental Agencies will be paying 27% of the total cost to finance and operate the ConRac and common-use transportation system.

- G. The California State Controller issued a Review Report on October 13, 2011, determining that that proposed daily CFC is not expected to exceed the reasonable costs projected to finance, design and construct the ConRac and that the City has complied with California Civil Code Section 1936 for the period from project inception, July 1, 2000 through June 30, 2041.

### **SECTION 3. DETERMINATION**

Based on the analysis of the above background information, facts and findings, Council determines and concludes that the City has met the conditions of California Civil Code Section 1936 to impose a daily CFC in the amounts and for the time periods as set out in this Resolution.

**SECTION 4.** A customer facilities fee and customer transportation fee (collectively, "CFC") of \$6.00 per day, up to a maximum of five days per rental car contract is imposed effective December 1, 2011, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design and construction of the Consolidated Rental Car Garage, and the costs of providing a common-use transportation system to transport rental car customers between Terminal A and the Consolidated Rental Car Garage.

**SECTION 5.** Subject only to the California State Controller's Office substantiating the continued need for the rate increase at that time, a CFC of \$7.50 per day, up to a maximum of five days per rental car contract is imposed effective January 1, 2014, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design and construction of the Consolidated Rental Car Garage, and the costs of providing a common use transportation system to transport rental car customers between Terminal A and the consolidated Rental Car Garage.

**SECTION 6.** Resolution No. 74039 is repealed effective December 1, 2011.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

CHUCK REED  
Mayor

ATTEST:

---

DENNIS D. HAWKINS, CMC  
City Clerk